

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDWARD ALVARADO, *et al.*,

Plaintiffs,

v.

FEDEX CORPORATION,

Defendant.

No. C 04-0098 SI

Related Case C 04-0099 SI

**ORDER GRANTING IN PART
PLAINTIFFS' MOTION FOR PARTIAL
RECONSIDERATION OF JUNE 27, 2006
ORDER**

On July 20, 2005, plaintiffs filed a motion for leave to file a motion for partial reconsideration of the Court's June 27, 2006 order. Plaintiffs request that the Court reconsider its complete exclusion of plaintiffs' experts McPherson and Stephenson because, *inter alia*, portions of the December 29, 2005 expert reports were not "preliminary." Plaintiffs also argue that the severance of plaintiffs' trials is also a factor weighing in favor of allowing plaintiffs to present expert evidence and testimony from McPherson and Stephenson.

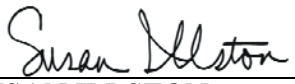
After review of plaintiffs' papers, the Court hereby GRANTS plaintiffs' motion as follows: plaintiffs are not precluded from relying on the non-preliminary portions of the December 29, 2005 reports prepared by McPherson and Stephenson, and McPherson's testimony thereon,¹ if (1) plaintiffs make McPherson available for further deposition prior to the pretrial conference in this case (see schedule below), and (2) the deposition and any trial testimony is limited *solely* to the non-preliminary damages figures contained in the December 2005 reports. Accordingly, in order to accommodate the need for such a deposition and conflicts in the Court's trial calendar, the July 25, 2006 pretrial

¹ It appears from the record in this case that only McPherson was deposed in December 2005.

1 conference is rescheduled to **August 15, 2006**, and the trial for plaintiff Alvarado is rescheduled to
2 **August 28, 2006**. At the August 15, 2006 pretrial conference, the Court shall address any issues
3 concerning the admissibility of Mr. McPherson's expert testimony.

4
5 **IT IS SO ORDERED.**

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7 Dated: July 21, 2006



SUSAN ILLSTON
United States District Judge